

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 35A.5, the Department of Veterans Affairs hereby proposes amendments to Chapter 14, "Veterans Trust Fund," Iowa Administrative Code.

The amendments to Chapter 14 are proposed to modify the availability of assistance through the trust fund and to improve administration.

Any interested party or persons may present their views either orally or in writing at a public hearing to be held on April 17, 2009, from 12:30 to 1 p.m. at the Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing should contact Kent Hartwig, Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824, or at (515)242-0031, prior to the date of the hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact Kent Hartwig at (515)242-0031.

Any interested person may make written comments or suggestions on the proposed amendments until 4:30 p.m. on April 17, 2009. Written comments and suggestions should be addressed to Kent Hartwig, Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824; sent by E-mail to kent.hartwig@iowa.gov; or sent by fax to (515)242-5659.

No fiscal impact is anticipated.

These amendments are intended to implement Iowa Code section 35A.13.

The following amendments are proposed.

ITEM 1. Amend rule 801—14.2(35A) as follows:

801—14.2(35A) Definition. For purposes of this chapter, "veteran" means the same as defined in Iowa Code section 35.1, or a resident of Iowa who served in the armed forces of the United States, completed a minimum aggregate of 90 days of active federal service, other than training, and was discharged under honorable conditions, or a former member of the national guard, reserve, or regular component of the armed forces of the United States who was honorably discharged due to injuries incurred while on active federal service that precluded completion of a minimum aggregate of 90 days of active federal service, other than training.

ITEM 2. Amend subrule 14.3(1) as follows:

14.3(1) Income. For the purposes of this chapter, an applicant's household income, ~~excluding~~ including VA pension benefits, ~~and~~ service-connected disability income, and social security income, shall not exceed ~~300~~ 200 percent of the federal poverty guidelines for the number of family members living in the primary residence in effect on the date the application is received by the county director of veterans affairs. Federal poverty guidelines shall be those guidelines established by the Iowa department of human services for the veteran's family size. The commission shall adjust the guidelines on July 1 of each year to reflect the most recent federal poverty guidelines.

ITEM 3. Amend rule 801—14.4(35A), introductory paragraph, as follows:

801—14.4(35A) Benefits available. Applications may be approved for any of the following purposes. By a majority vote, the commission may suspend some or all of these benefits for payment.

ITEM 4. Amend subrule 14.4(3) as follows:

14.4(3) Unemployment or underemployment assistance during a period of unemployment or underemployment due to prolonged physical or mental illness resulting from military service or disability resulting from military service. The commission may provide subsistence payments only to a veteran who has suffered a loss of income due to prolonged physical or mental illness resulting from military service or disability resulting from military service. The commission may provide subsistence payments of up to \$500 per month of unemployment or underemployment to a veteran. No payment may be made under this subrule if the veteran has other assets or income available to meet basic subsistence needs. A period of unemployment implies that it is possible for the veteran to be employed in the future. A rating from the VA of 100 percent due to individual unemployability (IU) rated permanent and total indicates that a veteran is unemployable and will not qualify for assistance under this subrule. The veteran shall provide such evidence as the commission may require, which includes but is not limited to evidence that the mental illness or disability is service-connected and evidence that the veteran is unemployed or underemployed for the period of payments. To qualify as underemployed, the applicant must be currently working at an income that is below ~~200~~ 150 percent of federal poverty guidelines due to limitations caused by the applicant's service-connected disability or illness. The maximum amount of aid payable in a consecutive 12-month period under this subrule is \$3,000 and a lifetime maximum of \$6,000.

ITEM 5. Amend paragraph **14.4(11)“c”** as follows:

c. The maximum amount of aid payable in a ~~consecutive 12-month period~~ calendar year under this subrule to a veterans organization is \$500.

ITEM 6. Amend subrule 14.5(2) as follows:

14.5(2) Date of application. The date of the application shall be the date the signed application and written verification are received by the ~~county director~~ Iowa department of veterans affairs.

ITEM 7. Amend paragraph **14.5(3)“a”** as follows:

a. The county director of veterans affairs or members of the county commission shall make a recommendation to the Iowa commission of veterans affairs as to whether to approve or deny the application. The Iowa commission of veterans affairs or a subcommittee appointed by the chair shall approve or deny all applications. Applications ~~that are denied by the subcommittee will be forwarded submitted~~ to the Iowa commission of veterans affairs ~~and~~ will be processed at its quarterly meetings as set forth in 801—paragraph 1.2(2)“a” or during a conference call for the ~~sole~~ purpose of voting on a trust fund expenditure. Applications must be approved by a majority vote of the commission membership or appointed subcommittee. The director of the Iowa department of veterans affairs shall notify an applicant within 15 days of the commission's decision. An explanation of the reasons for rejection of an application will accompany denials.

ITEM 8. Amend subrule 14.5(4) as follows:

14.5(4) Waiting list. After all veterans trust fund moneys have been obligated, the commission shall approve or deny pending applications based on eligibility.

~~a. —The denial notice shall state either that the applicant meets eligibility requirements but no funds are available and the applicant will be placed on the waiting list or that the applicant does not meet eligibility requirements.~~

~~b. Applicants not awarded funding~~ who meet the eligibility requirements and are approved for payment by the commission shall be placed on a ~~statewide~~ waiting list based on the date of approval and then according to the order in which the completed applications and verification were received by the ~~county~~ Iowa commission of ~~veteran~~ veterans affairs. In the event that more than one application is received at one time, the applicant shall be entered on the waiting list on the basis of the ~~day of the~~

~~month of the person's applicant's birthday, the lowest number oldest applicant being first on the waiting list. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.~~

~~c. —When funding allows additional applicants to be approved, their names shall be taken from the statewide waiting list, and their need and eligibility shall be redetermined at that time. An application packet, which includes instructions and necessary forms for verification of continuing eligibility, shall be sent to each applicant for completion. Packets shall be returned to the Iowa department of veterans affairs within time lines specified by the department. If the signed application and verification of continuing eligibility are not received by the time line specified by the department, the applicant shall not be considered for funding.~~

ITEM 9. Amend rule 801—14.7(35A) as follows:

801—14.7(35A) Appeal rights.

~~14.7(1) *Final agency action.* *Subcommittee action.* The approval or denial of an application by the commission or the department shall be the final decision of the agency. An applicant may appeal the decision of the subcommittee to the full Iowa commission of veterans affairs. The applicant shall appeal the decision of the subcommittee to the commission in writing within 30 days of receiving the written denial and shall provide relevant new information to substantiate the appeal.~~

~~14.7(2) *Judicial review.* *Final agency action.* Judicial review of the commission's final decisions may be sought in accordance with Iowa Code section 17A.19. The approval or denial of an application by the commission or by the department shall be the final decision of the agency.~~

~~14.7(3) *Judicial review.* Judicial review of the commission's or department's final decisions may be sought in accordance with Iowa Code section 17A.19.~~